

EXHIBIT

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TO:	Jay Fleisher, Esq.	DATE:	September 21, 2000
FIRM:	Shriners Hospitals for Children	CLIENT NO:	3729-1
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FROM	Brian W. LeClair, Esq.	SENDER DIRECT DIAL:	617-210-1495
RE:		PAGES SENT:	6
		(INCLUDING COVER)	

☐ URGENT ☐ REPLY ASAP ☐ PLEASE COMMENT ☐ FOR YOUR REVIEW

MESSAGE:

*MORRIS GOLDINGS - OUT A MTL
 (ANYTHING OTHER THAN A YES
 WILL BE INTERPRETED AS A NO).*

SHC 00930

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MAHONEY, HAWKES & GOLDINGS, LLP
ATTORNEYS AND COUNSELLORS AT LAW

September 21, 2000

BY FACSIMILE TRANSFER

Jay Fleisher, Esquire
Shriners Hospitals for Children
P.O. Box 31356
Tampa, Florida 33631-3356

Re: Vantage Group

Dear Mr. Fleisher:

We represent The Vantage Group in connection with an action entitled U.S. ex rel Saklad v. Vantage Travel Services Inc., No. 97-10052 on the docket of the United States District Court for Massachusetts.

In 1998, the Postal Service sent letters seeking information and documents from Vantage's customers concerning historical communications and transactions with Vantage. Vantage moved for an order restraining the Postal Service from contacting the customers and related relief. There follow excerpts of a July 23, 1998 hearing transcript on Vantage's motion. If you examine pages 26-7, you will see that Judge Lindsay, the sitting emergency judge, ordered that the Postal Service not send any more letters to charities without first obtaining leave from Judge Wolfe, to whom the case had been assigned. At no time subsequent to that hearing has the Postal Service sought, or the court granted leave for the Postal Service to contact Vantage's customers or vacated Judge Lindsay's July 23, 1998 Order.

We understand that your client, the Shriners Hospitals for Children, may have recently received a letter from the Postal Service requesting historical information concerning communications or transactions with Vantage. We believe any such letter would have violated Judge Lindsay's order. In recent communications with the United States Attorney's office in Boston, we have advised them that we believe any letters sent to Vantage's customers violate Judge Lindsay's order and that we are considering seeking sanctions.

Should you have any questions, please do not hesitate to call.

Sincerely,


Brian W. LeClair

Enclosure/63497

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UNITED STATES DISTRICT COURT FOR
DISTRICT OF MASSACHUSETTS

Civil Action No. 97-10052

UNITED STATES OF AMERICA

Vs.

VANTAGE TRAVEL SERVICE and
HENRY R. LEWIS

TRO MOTION HEARING
BEFORE THE HONORABLE REGINALD C. LINDSAY
UNITED STATES DISTRICT JUDGE

Courtroom No. 12, 3rd Floor
Post Office & Courthouse Building
Boston, Massachusetts 02109
July 23, 1998

APPEARANCES:

John Capin, AUSA, on behalf of the government.

Morris M. Goldings, Esq., on behalf of the defendant.

Teri Celeste Gibson, Official Court Reporter
605 U.S.P.O. & Courthouse Building
Boston, Massachusetts 02109
(617) 423-6614

Mechanical stenography; computer aided transcription.

1 letters out before the case started.

2 MR. GOLDINGS: No, he did not say that.

3 THE COURT: He said that in his papers. Didn't you
4 tell me in your papers that before you -- didn't you tell me
5 in your papers before you that these things happened before
6 the complaint was filed or before the government had
7 intervened?

8 MR. CAPIN: No. These letters went out after the
9 case developed. These letters could not go out until the
10 case was unsealed which happened when we intervened.

11 THE COURT: So the litigation had been done?

12 MR. CAPIN: That's correct, Your Honor. I feel
13 obligated to correct something on the record. I think I said
14 in telling the court how many nonprofit organizations we have
15 told Vantage or implicated in this civil action, that there
16 were 130, give or take a dozen. I didn't mean to suggest
17 that we sent a dozen letters.

18 THE COURT: No, I understand. Okay. So you sent
19 this letter out to these charities in connection with this
20 litigation.

21 MR. CAPIN: That's correct.

22 THE COURT: So that you -- if I hear what you are
23 saying, you took advantage -- the government took advantage
24 of powers that it would have had in the absence of litigation
25 to use this in the course of litigation to get this

1 information, which means that I take it your position would
2 be that as litigation proceeds, you can continue to do this
3 because you have the right under these regulations to do
4 this; is that going -- would that be your position?

5 What difference does it make that you have a right
6 to give a subpoena?

7 Couldn't you just send these letters out anytime
8 you wanted to?

9 MR. CAPIN: I think this particular letter could go
10 out at any time. I think any time during the course of civil
11 litigation, any litigant has the right to send a witness or
12 potential witness a letter asking for information.

13 THE COURT: No, but --

14 MR. CAPIN: If that litigant then responds to the
15 Postal Service and says, "What right have you to gather this
16 information?" If I were to read to them the applicable
17 regulations, I don't think I would be doing anything
18 different from what I am doing now, and I don't think I would
19 be doing anything that is outside of the rules.

20 Mr. Goldings is suggesting, somehow, that his
21 client has a proprietary right to know who we are contacting,
22 to have -- to be CC'd, copied on letters to nonparty
23 witnesses. There is simply no support in the rules, and the
24 bankruptcy analogy just simply doesn't hold.

25 THE COURT: Here is what I'm going to do. I am

1 going to -- I am going to order that you not send anymore
2 letters like this out to any of these charities, pending a
3 scheduling conference by Judge Wolf at which time I will have
4 Judge Wolf make the decision.

5 I will ask -- you can put the question to Judge
6 Wolf about how -- what happens with respect to the letters
7 that have already gone out, but at the scheduling conference,
8 Judge Wolf with presumably set a schedule and determine what
9 method of discovery there will be, and it seems to me one of
10 the things you want to discuss with him is whether you can
11 send letters like this out to charities or contact charities,
12 independently.

13 I think you can do that, frankly, but I don't think
14 you should send any more letters until Judge Wolf has had an
15 opportunity to review this in the context of an overall
16 schedule of discovery in this case, and then the question
17 becomes what happens with the people you already notified.

18 MR. GOLDINGS: That's why I rose. At the very
19 least we would like to know who he notified. I would really
20 like an order that he be required to say something to them.

21 THE COURT: What about that? You say that is your
22 work product. It seems to me -- I am not sure why that is
23 work product. Tell me why that is work product, what
24 persons you talked to?

25 MR. CAPIN: Your Honor, if during the course of